

FEDERATION OF FLY FISHERS

Northern California Council

Conserving - Restoring - Educating Through Fly Fishing

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Daniel A. McDaniel
President

September 22, 1999

CALFED Bay Delta Program
1416 Ninth Street, Suite 1155
Sacramento, CA 95814

Attention: Richard Breitenbach

Re: Draft Programtic Environmental Impact Statement/
Environmental Impact Report

Dear Mr. Breitenbach:

Please accept these comments on behalf of the Northern California Council of the Federation of Fly Fishers ("NCCFFF") concerning the CALFED Bay Delta Draft Programatic Environmental Impact Statement/Environmental Impact Report ("EIR") dated June, 1999. Separate additional comments are being submitted by Robert N. Ferroggiaro, the NCCFFF Vice-President of Conservation.

The NCCFFF represents thousands of anglers living in Northern California and Northern Nevada. They are regular users of the waterways affected by the EIR. We submit that as the EIR currently consists, it is legally inadequate and deficient, and fails to put forth a reasonable and responsible plan or program for remedying the deteriorated condition of the Sacramento-San Joaquin Delta. It is a plan and project that is environmentally bankrupt, and conceived by an unholy union of exporters seeking to avoid the loss of cheap water they would incur by a genuine restoration of the San Francisco Bay-Sacramento-San Joaquin Delta.

The United States Bureau of Reclamation ("USBR") and the California Department of Water Resources ("DWR") are directly and primarily responsible for this deteriorated condition, and have the legal and moral responsibility to bear the burden of all necessary remedial action. In general, it appears that the integrity of the CALFED program has been compromised by the domination and influence of the USBR and DWR. Specifically, we submit



the following deficiencies:

1. Failure to provide adequate information for meaningful public review:

The EIR is required to be an informational document which will inform the public generally of the significant environmental effects of the project. The EIR should contain a clear explanation and be written in plain language so that the public can easily understand the documents and what is being proposed.

Instead, the document is voluminous and so intimidating as to dissuade members of the general public from meaningful participation in the review process. This is particularly so in view of the short period of time for review and comment. Indeed, it appears that by design or oversight the EIR is so convoluted, it has obscured the project, making it difficult for the average person to discern that the most significant features of the program are the construction of new dams and the increase in the elevation of dams, and the commencement of the construction of a peripheral canal. Similarly, there appears to be a patent attempt to obscure the fact that a predominant feature of the plan is to actually increase the level of diversions and exports from the Delta. The general public deserves, and the responsible agencies have a legal obligation to provide, clear information so that informed comment and decisions may be made.

2. Failure to consider the reasonable alternative of reducing exports:

It is a matter of common knowledge that the current deteriorated state of the Bay-Delta is the direct result of excessive exports by the state and federal water projects. Proper consideration should be, but was not, given to reducing such exports. After all, the export consumers have the lowest legal and ethical priority, and since the export consumers have clearly created the problem, it is they who have the obligation to mitigate the damage they caused and absorb the expense and inconvenience of the remedy.

By reduction of exports, conservation, brine water recovery and reclamation, and alternative measures will by necessity be mandated. The ill-conceived plan to increase exports and continue the unreasonable dependence upon Northern California water

will accomplish nothing but to increase demands upon unavailable resources.

3. The EIR and the CALFED Bay Delta Program place unreasonable and legally improper barriers to remedial efforts:

Throughout the CALFED process, and within the EIR, it is indicated that any CALFED solution must "be equitable", "be affordable", and "have no significant redirected impacts." These principles are completely inconsistent with the water law of the State of California.

The water law of the State of California is a system of priorities, and the Public Trust, Fish and Game Code section 5937 obligations, mitigation obligations, area of origin rights, and riparian rights, are all senior to the rights of the appropriators enjoying the exported water.

By requiring that solutions be "equitable", a barrier inconsistent with the law of the State of California has been placed since junior appropriators will certainly claim their rightful losses are inequitable. Similarly, the requirement that a solution be "affordable" is vague and ambiguous, and appears to be designed to avoid expense to those subordinate, junior appropriator stakeholders who have the responsibility to mitigate the consequences of their diversions. With respect to the requirement of "no significant redirected impacts", again this seems purposefully designed to protect those with subordinate rights, and creates a pre-condition of any solution which is inconsistent with the law of the State of California.

In the final analysis, CALFED has ignored its primary responsibilities to protect Public Trust resources, comply with section 5937 obligations, and provide mitigation for the adverse effects of the DWR and USBR excessive exports. Instead, the project, the proposal, and CALFED are serving only the interests of export consumers with subordinate rights, both legally and morally.

4. Failure to quantify Bay-Delta requirements:

The EIR fails to specifically identify the quantities of water necessary to protect and restore the Bay-Delta. Without such quantification, thereby establishing baseline requirements

for the system and the program, it is impossible to make a meaningful evaluation of the program and project. Warm and fuzzy phrases like "adaptive management" are not an adequate substitute for the ability to make an informed assessment of the significant environmental impact.

Further, it cannot be determined what significant environmental effects will result or may be avoided, nor can it be determined what significant irreversible environmental changes would be caused by the program and the project. It also cannot be determined what possible effects are or are not significant, nor may proper consideration be given of the potential cumulative impacts. Without baseline information of the environmental setting, meaningful evaluation is impossible.

5. Imposition of self-fulfilling water quality condition to insure construction of the Peripheral Canal:

By conditioning the construction of the Peripheral Canal upon the inability to provide Delta source water quality of 50 ppb bromide and 3 ppm TOC without reducing exports, the program is less than truthful and obscuring the fact that its self-serving inability to meet the water quality requirement will dictate the desired result of the construction of the Peripheral Canal.

6. Failure to adequately assess environmental setting:

The EIR fails to include an adequate description of the physical environmental conditions as they exist with reference to all marine life, and particularly invertebrates and resident Rainbow Trout. Further, adequate efforts have not been put forth to assess the status of anadromous forms of *Oncorhynchus mykiss*, Steelhead.

7. Steelhead target level inadequate:

The long term objective is described vaguely and ambiguously as to "restore self-sustaining populations of Steelhead. . .". It is then stated that the numbers of fish of natural origin "should exceed in most years the estimated population level in the early 1960s: 40,000 adult spawners annually." It is impossible to determine if something less than 40,000 adult spawners annually would satisfy the objective of restoring "self-sustaining populations. . .", and we believe the historic numbers to be

greater than 40,000.

8. Re-water the San Joaquin River:

The EIR fails to consider and propose the restoration of adequate flows in the San Joaquin River so that it flows beyond Gravelly Ford, and will allow the return of Steelhead and Salmon to return to their historical spawning areas above Gravelly Ford. The EIR indicates a purpose to "Restore ecological health. . ." Instead, the program improperly imposes a condition that it do nothing to restore the ability of Salmon and Steelhead to access the area upstream of the confluence of the Merced River.

9. Include restoration of Steelhead in the Calaveras River Ecological Management Unit:

While the presence of Steelhead in the Calaveras River is known to anglers, and scientifically suggested by the presence of Chinook Salmon, the vision for this unit does not include the restoration and maintenance of the important ecological processes that will support a sustainable population of Steelhead. This needs to be included.


10. Failure to provide adequate notice:

Although the EIR is dated June 1999, it was unavailable for comment until much later. As such, adequate notice was not given.

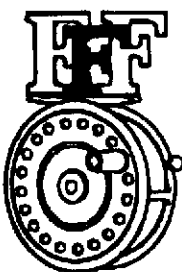
In conclusion, we respectfully submit that the EIR is not legally adequate and while some meaningful efforts appear, there is a general failure to make meaningful efforts to restore fishery resources and the Bay-Delta. Exports must be reduced. Until you provide more than token lip-service to environmental restoration, meaningful restoration will not take place.

Very truly yours,

NORTHERN CALIFORNIA COUNCIL
FEDERATION OF FLY FISHERS


DANIEL A. MCDANIEL
President

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**FEDERATION OF FLY FISHERS***Conserving — Restoring — Educating Through Fly Fishing*

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FAX TRANSMITTAL SHEET

DATE: 9/24/99
TIME: 11:30 AM
TO: RICK BREITENBACH
CALLED

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The total number of pages in this transmittal is 4, including this page.If you do not receive all of the pages indicated above, or if you experience a problem with this transmission, please call CHUCK BUCARID at (916) 443-3791.

The documents sent pertain to the following:

RICK -

THANKS FOR SUBSTITUTING THESE 3
PAGES OF OUR "STEELHEAD" COMMENTS
FOR THOSE 2 PAGES IN OUR LETTER
SENT YESTERDAY.

YESTERDAY'S LETTER INCLUDED AN
ORIGINAL AND ONE COPY. I WILL SEND
AN ORIGINAL PLUS "ONE SET COPY"
BY SNAIL MAIL TODAY AT 1 . . . PM

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3. STEELHEAD

CALFED's separate documents reflect inadequate information from which to understand its specific goal with respect to steelhead recovery in the Sacramento-San Joaquin river system. Its figures are confusing and explanations are inadequate. Different population numbers representing different approaches to the population recovery goal must be reconciled. Further, the maximum number shown in the ERPP is inadequate. The documentation is totally silent and therefore inadequate with respect to the Trinity. Changes in the draft to meet with our steelhead population recovery concerns and Trinity River needs are requested. The following partial citations provide direction to the reader.

CALFED's "Multi-Species Conservation Strategy," page no. 3-7, states as a goal:

"Recovery to a minimum of 13,000 adult steelhead spawning upstream of the Red Bluff Diversion Dam; restore self-sustaining populations of steelhead to all streams that provide suitable habitat and historically supported steelhead populations, or could be restored to provide suitable habitat with the implementation of reasonable restoration and protection measures; and increase populations such that numbers of fish of natural origin equal or exceed the average number of fish of hatchery and natural origin from 1980-1998."

6. "ERPP Volume I," page no. 222, cites as follows:

" The California Fish and Wildlife Plan estimated that there were 40,000 adult steelhead in the Central Valley drainages in the late 1950's, and Hallock et al. (1961) estimated that the average annual steelhead run size was 20,540 adults in the Sacramento River system above the mouth of the Feather River. In the early 1960's it is estimated that 30,000 adult steelhead returned to Central Valley rivers and streams (Mills et al. 1996, Mills and Fisher 1994).

7. "ERPP Volume II," "Zone Visions" is silent on specific steelhead restoration goals.

The conflicting language on population goals between the ERPP and the Multi-species Conservation Strategy needs to be corrected. The Multi-Species Conservation Strategy should be updated with information in the ERPP as expanded upon in the following comments.

As a baseline goal we request CALFED strive to restore both Sacramento-San Joaquin and Trinity River steelhead to pre-project population levels. Steelhead populations have been drastically reduced in all rivers or streams effected by Central Valley Project or State Water Project water exports. The historic record of numerical counts is weak. However, oral history, some written documentation and comparison with Chinook salmon abundance data indicate steelhead abundance was vast. In order to reconcile the discrepancy of inadequate pre-project inventories with generalities found in other sources, scientific

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projections made by the State Department of Fish and Game form a reasoned basis for an acceptable population goal.

CALFED's principal goal for steelhead restoration must be to "optimize" populations, rather than assure fish counts are at "sustainable" levels. This means the restoration goal for the Sacramento-San Joaquin river system should not necessarily be the early 1960's population estimate of 40,000 steelhead referenced in Draft ERPP Volume I (p. 222). Although we recognize that the goal of 40,000 naturally occurring adult steelhead is a significant improvement over steelhead population goals specified in past ERPP drafts, we believe that 40,000 adult steelhead may be an inadequate CALFED goal. By comparing historical steelhead and salmon production prior to 1950 in relatively undisturbed coastal streams (Klamath and South Fork Eel rivers), and historical chinook salmon production in the Central Valley (1 to 2 million adults annually), historical steelhead production in the Central Valley - prior to water development - was probably between 2 and 20 million adult spawners annually. Thus, recognizing some of the irreversible changes in the river system man has made, CALFED should strive to achieve restoration to a level that is considerably higher than 40,000 adults. If the NMFS recovery planning process considers the reasonable expansion possibilities of improved steelhead habitat it may shed some light on minimum viable population size and an achievable population goal.

We urge that the optimum level achievable under expanded and improved river and stream habitat conditions be selected as CALFED's steelhead population recovery goal. We believe that it could be significantly greater than 40,000 adults, and CALFED should not foreclose on the possibility of a greater population goal under its adaptive management concept if new information or analysis becomes available.

Habitat restoration actions under CALFED to help Chinook salmon will benefit steelhead only to a minor degree. The CALFED Ecosystem Restoration Program Plan must provide the means by which steelhead may reach the head waters of river systems and streams to which they have had historic access (or where access may be made available under the habitat restoration program). In many valley rivers adequate supplies of water cool enough for summering-over steelhead juveniles are not available. These two conditions must be corrected under the ERPP:

1. Currently inadequate or unstable supplies must be replaced with adequate supplies of high quality water.
2. Water temperatures must fall within the optimum range for steelhead in all of their life stages.

In order to achieve the goals noted above, additional temperature control devices may need to be added to existing reservoirs. However, getting more steelhead to extensive and diverse headwaters not used by Chinook salmon is the appropriate action if runs are to be optimized. This is necessary because of the year around temperature sensitivity of steelhead, and so that the two species don't compete for the same limited food supply. Access to smaller feeder streams for steelhead will limit the competition to the advantage

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of both species. As a part of the optimization process, experiments must be funded to determine the efficacy of steelhead restoration above major reservoirs.

We applaud removal of dams on Butte Creek. Action to implement the Battle Creek plan will potentially result in expanded high quality steelhead habitat. We support rapid action on this project. Dam removal on Clear Creek has similar potential. These creative approaches to solving the problem of where can restoration take place are commendable. Englebright dam on the Yuba River presents a different problem. The dam must go, or a fail-safe method of fish passage must be found. The price may include flood control works downstream, which we support, in concept. The costs will be high and the politics difficult. Nevertheless, this represents potentially the best single option for free-flowing river restoration in California. In no event should Yuba River steelhead restoration be minimized or eliminated. We strongly support CALFED action to make this restoration take place.

On a separate front, any plan for restoration of must include funds for experiments and feasibility studies related to steelhead passage around major dams and reservoirs. Both Shasta and Oroville are candidate reservoirs for such experiments.